

UNITED STATES DISTRICT COURT
DISTRICT OF MAINE

PIERRE A. VINCENT,)
)
Plaintiff,)
)
v.) 2:14-cv-00088-JAW
)
DON PARENT,)
)
Defendant.)

**ORDER AFFIRMING IN PART AND MODIFYING IN PART THE
RECOMMENDED DECISION OF THE MAGISTRATE JUDGE**

On March 11, 2014, Pierre A. Vincent filed a complaint in this Court against Don Parent with whom Mr. Vincent was employed at the United States Postal Service. *Compl.* (ECF No. 1). As the Recommended Decision discusses, Mr. Vincent has not yet properly served either Mr. Parent with the Complaint. *Recommended Decision* (ECF No. 9). Even though the Defendant moved to dismiss the Complaint based on a lack of proper service of process, the Magistrate Judge recommended that the Court deny the motion to dismiss, grant a motion to quash, and enter an order extending the time for Mr. Vincent to effect service. *Id.* at 3. The Defendant objected on only one point: that although the Magistrate Judge recommended that the time for service of process be extended, he did not recommend a particular amount of time. *Defs.' Limited Objection to Report and Recommended Decision* (ECF No. 12).

It is correct that the Magistrate Judge did not recommend a time limit for service of process, preferring instead to leave that issue to this Court. The Court therefore imposes the following deadline on Mr. Vincent: proof of proper service of

the Complaint within the requirements of Federal Rule of Civil Procedure 4 must be made by January 5, 2015. If Mr. Vincent has not filed documents by January 5, 2015 confirming that he has made proper service of process by January 5, 2015, the pending Complaint will be subject to dismissal upon motion by Defendant.

The Court performed a de novo review of the Recommended Decision of the Magistrate Judge and it concurs with the recommendations of the Magistrate Judge for the reasons set forth in his Recommended Decision regarding the denial of the motion to dismiss, the granting of the motion to quash, and the granting of the motion to extend time. The Court only modifies the Recommended Decision as follows: that the time for Pierre A. Vincent to effect service of process upon the Defendant shall be extended to January 5, 2015 and if Mr. Vincent fails to file proof of proper service of process by that date, the Complaint will be subject to dismissal upon motion of the Defendant.

The Court ORDERS as follows:

- (1) The Court DENIES the Defendant's Motion to Dismiss;
- (2) The Court GRANTS the Defendant's Motion to Quash; and
- (3) The Court GRANTS the Defendant's Motion to Extend Time and allows the Plaintiff until January 5, 2015 to file proof of proper service of process under Federal Rule of Civil Procedure 4.

SO ORDERED.

/s/ John A. Woodcock, Jr.
JOHN A. WOODCOCK, JR.
CHIEF UNITED STATES DISTRICT JUDGE

Dated this 10th day of November, 2014